

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

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JOHNNY HA, JENNY PHAM a/k/a )  
JENNY HA, and HELEN LE, )  
 )  
 *Plaintiffs,* )  
 )  
 v. )  
 )  
 TINA CONN, )  
 )  
 *Defendant.* )  
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Civil Action No.: 2:20-cv-155-wks

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TINA CONN, )  
 )  
 *Counterclaim Plaintiff,* )  
 )  
 v. )  
 )  
 JENNY PHAM (aka JENNY HA), )  
 )  
 *Counterclaim Defendant.* )  
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**NOTICE OF NON-OPPOSITION TO PLAINTIFF/COUNTERCLAIM DEFENDANT JENNY PHAM'S  
RULE 41(b) MOTION TO DISMISS DEFENDANT/COUNTERCLAIM PLAINTIFF TINA CONN'S  
COUNTERCLAIMS FOR FAILURE TO COMPLY WITH THIS COURT'S NOVEMBER 5, 2021 ORDER**

Plaintiff/Counterclaim Defendant Jenny Pham (also known as Jenny Ha) ("Ms. Pham"),  
by and through her undersigned counsel, hereby, states respectfully as follows:

On December 9, 2021, Ms. Pham filed a Motion to Dismiss (Doc. 29) pursuant to Rule  
41(b) of the Federal Rules of Civil Procedure seeking dismissal with prejudice of  
Defendant/Counterclaim Plaintiff Tina Conn's ("Ms. Conn") January 25, 2021 Counterclaims  
(Doc. 14, at pp. 16-20) for failure to comply with this Court's November 5, 2021 Order (Doc.  
28) granting Ms. Conn thirty days to retain new counsel or assert her right to self-representation.

Pursuant to Local Rule 7(a)(3)(A), responses to dispositive motions must be filed no later than 30 days after the motion is served. Allowing an additional three days for mailing (see Doc. 29-2) per Federal Rule of Civil Procedure 6(d), Ms. Conn's deadline to file a response to Ms. Pham's Rule 41(b) Motion to Dismiss was yesterday, **Tuesday, January 11, 2022.**

To date, Ms. Conn has not filed anything in response to Ms. Pham's Motion to Dismiss. Ms. Pham submits respectfully that her Motion to Dismiss should be granted with prejudice as unopposed. See generally McCain v. United States, No. 2:14-CV-92, 2015 WL 1221257, at \*5 (D. Vt. Mar. 17, 2015) (Sessions, J.) (motions granted properly as unopposed where pro se plaintiff "did not file any memoranda in opposition"). Cf. Robinson v. RWLS LLC, No. 16-CV-201-OLG, 2019 WL 12536566, at \*1 (W.D. Tex. Nov. 12, 2019) (granting with prejudice an unopposed Rule 41(b) motion); Bralich v. Sullivan, No. CV 17-00547 ACK-WRP, 2019 WL 4452827, at \*6 (D. Haw. Sept. 17, 2019) (same); Leibovitz v. City of N.Y., No. 15 Civ. 546 (LGS) (HBP), 2019 WL 4307305, at \*5 (S.D.N.Y. Aug. 27, 2019) (recommending the granting with prejudice of an unopposed Rule 41(b) motion), rep. and rec. adopted, No. 15 Civ. 0546 (LGS), 2019 WL 4303343 (S.D.N.Y. Sept. 11, 2019); Hassanein v. Standard Fire Ins. Co., No. 14-CV-2470 (SJF)(ARL), 2016 WL 3950082, at \*2 (E.D.N.Y. July 19, 2016) (granting with prejudice an unopposed Rule 41(b) motion); and Murphy v. Berdanier, No. 1:CV-14-00817, 2015 WL 179051, at \*3 (M.D. Pa. Jan. 14, 2015) (same).

### **CONCLUSION**

For the reasons stated above and in her Rule 41(b) Motion to Dismiss (Doc. 29), Plaintiff/Counterclaim Defendant Jenny Pham requests respectfully that this Court dismiss with prejudice Defendant/Counterclaim Plaintiff Tina Conn's January 25, 2021 Counterclaims (Doc. 14, at pp. 16-20), and order such other relief which the Court deems just and proper.

Dated: January 12, 2022  
Burlington, Vermont

Respectfully submitted,

MSK ATTORNEYS

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